

Jimenez v New York City Dept. of Educ.
2021 NY Slip Op 32537(U)
December 2, 2021
Supreme Court, New York County
Docket Number: Index No. 155825/2018
Judge: Lyle E. Frank
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE FRANK PART 52M

Justice

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INDEX NO. 155825/2018

MOISES JIMENEZ, DEVAUN LONGLEY, R.O BY HIS
GUARDIAN DORIS AFUMAA, A.A. BY HIS GUARDIAN
FRANCISCO BALLESTER, INTEGRATENYC INC.,

MOTION DATE N/A

MOTION SEQ. NO. 001

Plaintiff,

- v -

THE NEW YORK CITY DEPARTMENT OF EDUCATION,
THE PUBLIC SCHOOLS ATHLETIC LEAGUE, PUBLIC
SCHOOLS ATHLETIC LEAGUE EXECUTIVE DIRECTOR
DONALD J. DOUGLAS,

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 51, 52, 53, 54, 55, 56, 57, 58

were read on this motion to/for MISCELLANEOUS.

An application has been made pursuant to CPLR 908 for an order preliminarily approving the settlement of this action as between Moises Jimenez, Devaun Longley, R.O. by his guardian Doris Afumaa (collectively "Class Plaintiffs"), and IntegrateNYC Inc. (collectively, the "Plaintiffs") and the New York City Department of Education and the Public Schools Athletic League (collectively, the "Defendants") pursuant to the Settlement Agreement dated November 16, 2021 and its Exhibits attached as Exhibit 1 hereto, which sets forth the terms and conditions for a proposed settlement of the action and the disposition of all claims against the Defendants pleaded in the Amended Complaint.

The Court has read and considered the Settlement Agreement and its Exhibits, as well as all papers filed in connection with the application for its approval. Based thereon, and good cause appearing therefore IT IS HEREBY ORDERED as follows:

- 1. This Preliminary Approval Order incorporates by reference the definitions in the

Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has subject matter and personal jurisdiction over Plaintiffs, all members of the Class defined below, and Defendants.

3. The Court preliminarily approves the Settlement Agreement, including its payment and release provisions, as within the range of possible final approval and warranting the provisional certification of the Class defined below, subject to further consideration at the Final Approval Hearing described below.

4. The Court determines that the Class Notice in the form of Exhibit B to the Settlement Agreement and the Notice Plan as described in the Settlement Agreement are fair, adequate, and sufficient, constituting the best practicable notice under the circumstances, and are reasonably calculated to reach all or a substantial percentage of the members of the Class and apprise them of this action, the terms and conditions of the Settlement Agreement, and their rights under the Settlement Agreement. The Court directs that notice in the form prescribed be given to the members of the Class in accordance with the Notice Plan.

5. The Final Approval Hearing on the Settlement Agreement shall be held on March 9, 2022 at 10 am in room 308 of the Supreme Court of the State of New York, New York County, at 80 Centre Street, New York, NY 10013. At that Final Approval Hearing, the Court will consider the fairness of the Settlement Agreement, determine whether the Settlement Agreement was made in good faith and should be finally approved as fair, reasonable and adequate, and determine whether a Judgment and Order Granting Final Approval should be entered.

6. Any member of the Class may object to this Settlement Agreement (be an

“Objector”). Such an Objector must send a written statement of objections to Class Counsel, postmarked no later than February 18, 2022. That statement must (i) state the name, address, and telephone number of the Objector, (ii) state whether the Objector or his or her lawyer will ask to appear at the Fairness Hearing, (iii) describe all objections of the Objector and the specific reasons therefor (including legal support that the Objector wishes to bring to the Court’s attention), and (iv) attach any affidavits or other evidence relied upon in support of the objection. No later than 10 days before the Fairness Hearing, Class Counsel will file with the Court and serve upon counsel for Defendants all such objections in a single submission. In addition, any Objector or counsel for an Objector that desires to appear at the Final Approval Hearing must file with the Court and mail to Class Counsel and counsel for the Defendants, by first class mail and postmarked no later than 20 days before the date set for the Final Approval Hearing, a separate notice of intention to appear and any affidavits or other papers in support of the objection(s). Counsel for the parties shall be permitted to file and serve any response no later than 10 days before the date set for the Final Approval Hearing. No reply papers will be received.

7. All other motions and papers filed in support of final approval of the Settlement Agreement shall be filed no later than seven (7) calendar days prior to the Final Approval Hearing. The Court may continue the Final Approval Hearing without further notice to the Class.

8. The Court retains jurisdiction to consider all further applications arising out of or relating to the Settlement Agreement. The Court may approve the Settlement Agreement with such modifications as may be agreed to by Class Plaintiffs, on behalf of themselves and the Class, and the Defendants, if appropriate, without further notice to the Class.

9. Pending determination of whether the Settlement Agreement should be finally approved, (i) all discovery is stayed, and (ii) all other proceedings in the Action as between

Plaintiffs and Defendants, except those related to effectuating or complying with the Settlement Agreement, also are stayed.

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12/2/2021
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					OTHER
					REFERENCE